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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/003,770	11/15/2001	R. Dennis Nesbitt	P-5915	4535

24492 7590 09/29/2003

THE TOP-FLITE GOLF COMPANY
425 MEADOW STREET
PO BOX 901
CHICOPEE, MA 01021-0901

EXAMINER

GORDON, RAEANN

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 09/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/003,770

Applicant(s)

NESBITT, R. DENNIS

Examiner

Raeann Gorden

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7,9-14,16-19 and 21-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7,9-14,16-19 and 21-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7, 9-14, 16-18, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Hiraoka et al (Re 35,293). Regarding claim 1, Hiraoka discloses a golf ball comprising a core made from a polybutadiene (A). Polybutadiene (A) may be commercially available BUNA CB 10 (col 1, lines 52-67). According to applicant's spec page 11, table 3, BUNA CB 10 has a solution viscosity of 140 ± 20 mPa*s. Regarding claim 2, the COR value is an inherent feature since the polybutadiene is identical to applicant's. Regarding claim 3, applicant appears to be claiming a method of production which is not relevant to the final product. However, any properties based on the polybutadiene are inherent since applicant's is identical to Hiraoka. Regarding claim 4, Hiraoka discloses a Mooney viscosity range from 45 to 90 (col 1, line 59) and applicant discloses BUNA CB 10 has a Mooney viscosity of 47 ± 5 (spec table 3). Regarding line 5, the golf ball includes a cover (col 2, lines 58-61). Regarding claim 6, the polybutadiene has a 1-4 cis content of 80% or more (col 1, lines 53-55) and applicant discloses BUNA CB 10 has a 1-4 cis content of 96% or more (page 11, table 3). Regarding claim 7, the core composition includes a second polybutadiene (B)(col 2,

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lines 1-5). Regarding claim 9, the COR value is an inherent feature since the polybutadiene is identical to applicant's. Regarding claim 10, Hiraoka discloses a golf ball comprising a core made from a polybutadiene (A). Polybutadiene (A) may be commercially available BUNA CB 10 (col 1, lines 52-67). According to applicant's spec page 11, table 3 BUNA CB 10 has a solution viscosity of 140 ± 20 . The COR value is an inherent feature since the polybutadiene is identical to applicant's. Regarding claim 11, the polybutadiene has a 1-4 cis content of 80% or more (col 1, lines 53-55) and applicant discloses BUNA CB 10 has a 1-4 cis content of 96% or more (page 11, table 3). Regarding claim 12, applicant appears to be claiming a method of production which is not relevant to the final product. However, any properties based on the polybutadiene are inherent since applicant's is identical to Hiraoka. Regarding claim 13, the core composition includes a second polybutadiene (B)(col 2, lines 1-5). Regarding claim 14, Hiroaka discloses a Mooney viscosity range from 45 to 90 (col 1, line 59) and applicant discloses BUNA CB 10 has a Mooney viscosity of 47 ± 5 (spec table 3). Regarding claims 16 and 17, Hiroaka discloses the method of making a golf ball including selecting BUNA CB 10 for the core material and molding the core composition (col 2, lines 55-60). The performance features of the core are inherent since the material is identical to applicants. Regarding claim 18, the features of the polybutadiene are inherent since the material is identical to applicants. Regarding claim 19, Hiroaka discloses a Mooney viscosity range from 45 to 90 (col 1, line 59) and applicant discloses BUNA CB 10 has a Mooney viscosity of 47 ± 5 (spec table 3).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hiraoka et al (Re 35,293) in view of Cadorniga et al (5,508,350). Hiraoka discloses a golf ball comprising a core made from a polybutadiene (A) and a second polybutadiene (B)(col 2, lines 1-5). Hiroaka further discloses up to 25% of the second polybutadiene but does not disclose the range claimed by applicant. Cadorniga teaches 50% of two different polybutadienes in a golf ball core. One of ordinary skill in the art would have increased the quantity of the second polybutadiene to achieve the desired properties of the core.

Response to Arguments

Applicant's arguments filed 7-15-03 have been fully considered but they are not persuasive. Applicant has amended claims 1, 10, and 16 to recite a solution viscosity from 90 to 130 mPa s. However, the prior art teaches commercially available BUNA CB 10 (col 1, lines 52-67). According to applicant's spec page 11, table 3 BUNA CB 10 has a solution viscosity of 140 ± 20 mPa*s or a range from 120 to 160 mPa s. As previously mentioned, the COR values are inherent features since applicant's polybutadiene is identical to the prior art.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raeann Gorden whose telephone number is 703-308-8354. The examiner can normally be reached on M-F 9-5.

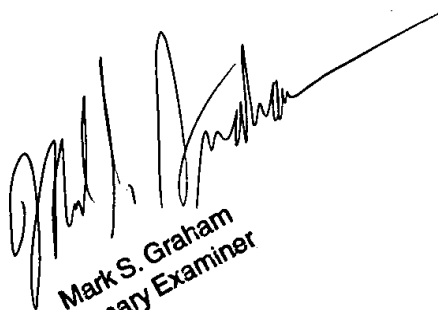
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Sewell can be reached on 703-308-2126. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

rg
September 24, 2003



Mark S. Graham
Primary Examiner